

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.722 OF 1995  
ALLAHABAD THIS THE 31ST DAY OF DECEMBER,2002

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, V.C.  
HON'BLE MAJ GEN. K.K. SRIVASTAVA, A.M.

Arun Kumar Tyagi,  
Travelling Ticket Examiner,  
Northern Railway,  
Mooradabad.

..... Applicant

(By Advocate Shri A. Kumar)

Versus

1. Union of India,  
through The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

2. The Divisional Railway Manager,  
Northern Railway,  
Mooradabad,

3. Shri Harnam Singh,  
Goods Supervisor,  
Railway Station-Rampur,  
District-Rampur.

..... Respondents

(By Advocate Shri A.K. Shukla)

ORDER

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

This O.A. has been filed challenging the order dated 05.01.1995 (Annexure A-1) by which the claim of the applicant for promotion as Commercial Apprentice has been rejected.

2. The facts of the case are that the applicant was working as Travelling Ticket Examiner under D.R.M., Northern Railway, <sup>^</sup> Mooradabad. The applicant appeared for selection as Commercial Apprentice in the scale of Rs.1600-2660/- . The claim of the applicant for promotion, however, was rejected on the ground that there were only two posts for the candidates of general category, therefore, he could not be accommodated. The decision on the representation filed by the applicant was communicated vide letter dated 15.11.1991. Aggrieved by the aforesaid decision, the applicant filed O.A. No.2822/91 before the Principal Bench of this Tribunal. The said O.A.

was decided on 15.07.94 with the following directions, which are contained in para 52 of the order and are being reproduced below:-

"(a) This O.A. is not barred by limitation and is maintainable. All preliminary objections are dismissed.

(b) The applicant has not only passed the examination which commenced with the Annexure A-2 notice but he stands third on merit, as is clear from the Annexure-IV result (88).

(c) The interim order of the Supreme Court issued on 21.12.1984 in the SLP filed against the judgement of the High Court in Civil Writ Petition No. 1807/92 (i.e., J.C. Malik Vs. Union of India decided by the Allahabad High Court reported in 1978 (1) SLR 844) directs that promotions to be made after 21.12.84, should be strictly in accordance with the judgement of the High Court in that case and if, any promotions have been made otherwise than in accordance with the judgement of that High Court, such promotions shall be adjusted against future vacancies. This interim order is still in force and has to be complied with by all concerned. The Railways are, therefore, required to consider whether the third vacancy can be kept reserved for a S.C. candidate, keeping in view this interim order of the Supreme Court.

(d) For this purpose the second respondent shall obtain the following information:-

- i) Total strength of the cadres specified in the Annexure A-2 notice dated 2.5.88 which was issued to fill up 10% of the vacancies in these cadres as on 1.1.88 or 1.4.88 or 2.5.88, whichever be the latest.
- ii) The total number of posts (i.e. 10%) in the above cadres which have to be filled up by departmental non-ministerial graduates on the basis of the limited competitive examination.
- iii) The number of posts have to be reserved for Schedule Castes i.e., 15% of (ii).
- iv) Names of the Scheduled Castes holding the 10% posts referred to in (ii) above as on the date on which Annexure A-2 notice was issued i.e., 2.5.88 and whether their number is more or less than the number of posts to be reserved for them vide (iii) above.

(e) In case the second respondent finds that the number of Scheduled Castes holding the 10% posts as on 2.5.88 (iv) of (d) Above) is more than the quota reserved for them, the applicant would become eligible for appointment to the third vacancy from the date (8.8.90) on which the Annexure A-9 order was issued and he shall be accordingly appointed, subject to satisfying other formalities, if any. On such appointment, the pay of the applicant shall be fixed in the pay scale of Rs. 1600-2660 from 8.8.90 but he shall be entitled to get the benefit of this revision either from the date on which he has actually been promoted to that pay scale or from the date of this order, whichever is earlier.



f) In case it is found that a vacancy exists for a Schedule Caste candidate the second respondent shall reject the claim made by the applicant in this O.A.

g) The Annexure C-1 letter of the Railway Board dated 9.2.94 to the first respondent shall remain in abeyance until the second respondent passes one of the two orders as in (e) or (f) supra and it shall abide by such order.

h) The second respondent shall issue a speaking order, containing all the information specified in (d) supra, within three months from the date of receipt of this order, under intimation to the applicant and the third respondent, who if aggrieved, may seek redress in accordance with law, as may be advised."

3. In pursuance of the aforesaid order of the Principal Bench, the competent authority has passed impugned order dated 5.01.1995 and found that the third vacancy is meant for reserved candidates of schedule caste, hence the applicant cannot be appointed against the same. The calculation given in para 3 of the impugned order is as under:-

"Thereafter it has laid down a precise method detailing how I should decide whether Shri Tyagi should be promoted of Shri Harnam Singh. This direction is contained in para 52(d), (e) and (f). The facts accordingly are as under:

Re 52(d) (i) Strength of the cadre - 104.

Re 52(d) (ii) 10% of the above - 10.4 rounded off to 10.

Re 52(d) (iii) 15% of (ii) - 1.5. This has to be rounded off to 2 in terms of Ministry of Railways (Railway Board) letter No.89/E/SCT.71/49 (Pt.) dt. 16.7.92. (P.S. No.10647).

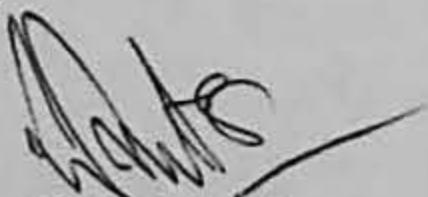
Re 52(d) (iv) Name of SC holding the 10% posts- Shri Ramesh Chandra i.e., one person.

Re 52(e) The number of SC incumbents was less than the quota, hence the applicant (Shri Tyagi) does not become eligible for promotion in the view of the Tribunal.

Re 52 (f) It is found that a vacancy for SC existed hence in compliance of direction contained in this para the claim of Shri Tyagi is rejected.

In view of the above Shri Harnam Singh may be promoted against SC Vacancy."

4. In view of the above, we do not find any error in the impugned order. The claim of the applicant has rightly rejected by the respondents. The O.A. is accordingly dismissed with no order as to costs.

  
Member-A

  
Vice-Chairman

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